

Exhibit B

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CERTIFIED
ORIGINAL TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF VERMONT
Case No. 5:17-cv-194

MISTY BLANCHETTE PORTER, M.D.,

Plaintiff

vs.

DARTMOUTH-HITCHCOCK MEDICAL CENTER,
DARTMOUTH-HITCHCOCK CLINIC,
MARY HITCHCOCK MEMORIAL HOSPITAL,
and DARTMOUTH-HITCHCOCK HEALTH,

Defendants.

C O N F I D E N T I A L

DEPOSITION OF LESLIE DeMARS
taken on behalf of the Plaintiff at Norwich,
Vermont, on October 23, 2019, at 9:00 a.m.,
before Cynthia Foster, Registered Professional
Reporter.

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APPEARANCES:

Geoffrey Judd Vitt, Esquire
Sarah Nunan, Esquire
Julia Korkus, Paralegal
Vitt & Associates, PLC
8 Beaver Meadow Road
P.O. Box 1229
Norwich, Vermont, 05055, on behalf of the Plaintiff, Misty Blanchette Porter, M.D., also present.

Katherine Burghardt Kramer, Esquire
KBK Law
6 Mill Street
P.O. Box 23
Middlebury, Vermont, 05753, on behalf of the Plaintiff, Misty Blanchette Porter, M.D., also present.

Donald W. Schroeder, Esquire
Foley & Lardner, LLP
111 Huntington Avenue, Suite 2500
Boston, Massachusetts, 02199-7610, on behalf of the Defendants, Dartmouth-Hitchcock Medical Center, Dartmouth-Hitchcock Clinic, Mary Hitchcock Memorial Hospital, and Dartmouth-Hitchcock Health.

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1 surprise me at all.

2 Q Did you talk to him about any of these issues
3 reflected in the exhibits in front of you?

4 MR. SCHROEDER: Who's he?

5 Q Sorry. Ed Merrens.

6 A No.

7 Q Why not?

8 A Because he looked at me at the Credentialing
9 Committee and said this is on you.

10 Q When were the first discussions about the
11 possibility of closing the REI Division?

12 A There was no discussion about it. That was
13 April of 2017, May 2017, that was after this
14 time.

15 MR. SCHROEDER: After what time?

16 A After February.

17 Q So Ed Merrens thought it was in March. Does
18 that sound right or do you think it was April
19 before the discussion started?

20 A I think it was April or May. And there was, the
21 discussion was never, the discussions we were
22 having were to contract and to stop IVF. The
23 discussions were never to close the division.

24 Q And who were the persons who were involved in
25 these discussions?

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1 you included the Value Institute?

2 MR. SCHROEDER: She didn't say Ed Merrens.

3 A I didn't say Ed Merrens.

4 Q Was he not involved in it?

5 A No. He was not.

6 Q Who made the decision ultimately?

7 MR. SCHROEDER: For what?

8 Q To close the REI Division?

9 A Again, we were not talking about that.

10 Q Well, somebody made a decision to close the REI
11 Division and to terminate the employees in that
12 division; is that correct?

13 A Yes.

14 Q Who made that decision?

15 A Dr. Merrens.

16 Q Okay. Now, prior to getting to that point,
17 getting to the point of deciding to close the
18 REI Division, who were the individuals who were
19 involved in the discussions about the
20 possibility of contracting the services to be
21 offered by the division?

22 A That was me, Heather Gunnell, the Value
23 Institute, Daniel Herrick.

24 Q Can you explain, please, what role or function
25 was performed by the Value Institute in these

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1 them were there.

2 Q One of the two of them were both conveyed the
3 conclusions of the Value Institute?

4 A Correct.

5 Q Let me take a short break.

6 (Recess taken 3:18 - 3:30 p.m.)

7 Q It was pointed out to me that you and I used a
8 term a few moments ago that can be interpreted
9 two ways. We talked about "contracting" the REI
10 services, and what I understood you to mean was
11 reducing or shrinking the size of the services,
12 not contracting out those services to a third
13 party like IVF Boston. You were referring to a
14 shrinkage, right?

15 A Correct.

16 Q Because the transcript could be read to refer to
17 a plan to send the IVF services to Boston or
18 some place. That wasn't --

19 A No. Limiting.

20 Q Okay. Thank you.

21 Do you understand that you were involved
22 pretty much from the outset in the discussions
23 about what to do with the REI Division? Is that
24 accurate?

25 A Discussions with whom?

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1 Q With the senior leadership at
2 Dartmouth-Hitchcock.

3 A I wouldn't characterize those meetings as
4 discussions.

5 Q How would you characterize them?

6 A I would characterize them as decisions having
7 been made without having discussions having
8 occurred, and my arguments to the contrary were
9 dismissed. Any plans that I had were dismissed,
10 and a process was put in place over which I had
11 absolutely no say.

12 Q Why do you believe that your arguments were
13 dismissed?

14 A Oh, because they were dismissed publicly and
15 condescendingly.

16 Q By whom?

17 A By Ed.

18 Q When you say "publicly," where?

19 A In a meeting of senior leadership.

20 Q Who was there?

21 A Ed, Daniel Herrick, Heather, Joni Spring who was
22 one of the nursing leadership, Maria, John
23 Kacavas, Victoria who's the publicity
24 communications person. Aimee Giglio.

25 MR. SCHROEDER: Be careful whether or not

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1 ability actually is. What she said was because
2 this is a business decision to close the
3 division, there is no longer a position for REI
4 physicians.

5 Q Was there a discussion in either of the meetings
6 about redeploying Dr. Porter to do ultrasound
7 work?

8 A That was not discussed at the meeting. That was
9 something that I had in the back of my mind
10 because, again, what I wanted to try to do was
11 to keep Misty employed. So I had a choice of
12 could I keep her within the department or could
13 I have her be a member of the Department of
14 Radiology. So I actually had a conversation
15 with Jocelyn Chertoff about potentially having
16 Misty move into Radiology.

17 Q Was she all right with that?

18 A No. She said I have no, I have no position
19 available in Radiology. I'm not interested in
20 hiring Misty within the department.

21 Q Okay. Exhibit 20 will be a document that was
22 marked as Exhibit 17 during the Merrens
23 deposition. Numbers are 2582 through 2583, but
24 there are a series of documents attached to it
25 that were produced in native format so there are

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1 Q Okay. Now --

2 A The complete shutdown is actually shutting down
3 the IVF program, not shutting down the division.

4 Q That was your understanding as of this date?

5 A Correct.

6 Q And this assumption of having Dr. Porter
7 refocused to begin ultrasound, that was
8 something you had considered as well, right?

9 A Yes. That was, again, because of the
10 recommendations that were made by the Value
11 Institute that we needed a shutdown and rebuild
12 of the IVF program, and that one of the issues
13 was in Misty's leadership of that program. I
14 wanted to keep Misty in the department. I
15 wanted her to be able to concentrate on
16 something that she was really great at, and then
17 as she recovered to then work with her on what
18 we could do with the IVF program as it existed
19 at that point in the future. So again, this
20 was, I wanted to keep Misty.

21 Q You said that Aimee Giglio mentioned apparently
22 more than once in these meetings that it was a
23 business decision to shut it down, right?

24 A Yes.

25 Q And you said no, it's a personal decision,